

## **ATTACHMENT A**

### **Remarks**

Claims 1-3, 6, 8-16, 18, 22, 23 and 32-34 have been rejected under 35 USC 103(a) as being "unpatentable over" the previously cited Thomas publication ("Thomas") in view of the newly cited Fostick reference ("Fostick"). These rejections are respectfully traversed, although claims 1 and 18 have been amended to more clearly define a distinction discussed below between the cited references and the present invention as claimed in these claims.

Turning now to the individual claims, in the rejection of claim 1, the Examiner admits that "Thomas fails to disclose identification codes for said compatible devices are preprogrammed into the cellular telephone." The Examiner further argues that "[h]owever, Fostick teaches identification codes for said compatible devices are preprogrammed into the cellular telephone so as to enable a name of a person to be associated with each said compatible device (FIG. 3 and column 7, lines 27-34)." The Examiner concludes that "it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Thomas using the cellular telephone as taught by Fostick." The Examiner also states that this "modification of the invention enables the system to disclose identification codes for said compatible devices are preprogrammed into the cellular telephone so that the user would organize the names and number of the conference participants."

Turning to the Fostick reference, Figure 3 of Fostick shows a block diagram of the structure of the SMS Conference Center of the Fostick system. As stated in Fostick, the short message (SMS) sent by the conference initiator 60 "may include an invitation to the conference and a list of individuals, whom the conference initiator (60) prefers to invite into the conference as conference participants (62)" (lines 42-45 of column 6). Contact information for each conference participant is indicated at 66 in Figure 3 while a SMS conference identifier (SCID) is indicated at 68. It is noted that the identifier 68 is used to identify a particular conference group and cannot be equated to "identification codes for each of said compatible devices" as claimed in claim 1 (and claim 18). Moreover, it is not seen that the SCIDs are identification codes that are preprogrammed into the cellular telephones so as to enable a name of a person to be associated with

each said compatible device. In this regard, as indicated above, Figure 3 relates to the SMS Conference Center (SMSCC) and not to an individual cellular telephone.

More generally, while it is agreed that both Thomas and Fostick generally relate to conference calling, the latter deals with short message services (SMS) conferencing which has unique characteristics that present special problems. As stated in Fostick in the first full paragraph of column 2, SMS is "traditionally a point-to-point or one-to-one communication method," and thus, a SMS message "can only be sent by one individual and received by one individual, thereby enabling two persons to have a one-to-one conversation." Fostick uses a SMS control center (SMSC) to enable establishing of a SMS conference "by temporarily storing the contact information for each conference participant, as a conference group, in the SMS conference center (SMSCC)" (lines 56-59 of column 2). This approach is necessitated by the unique characteristics of SMS and is an entirely different approach from the conferencing method disclosed in the Thomas reference which simply uses a specially equipped cellular telephone to set up a conference. Thus, it is respectfully submitted that the combination of Thomas and Fostick is necessarily the improper product of hindsight, given the actual teachings of the two references.

Turning to independent claim 11, this claim recites, inter alia, using a second transceiver to broadcast a request for compatible third party device within a desired local area to identify themselves, generating a list of the devices responding the request, and selecting at least one third party device from the list.

In rejecting claim 11, the Examiner admits that Thomas "fails to disclose generating a list of third party devices responding to the request and selecting of at least one third party device from the list." The Examiner further contends that "[h]owever, Fostick teaches generating a list of the third party devices responding to the request (column 7, lines 27-34); and "selecting of at least one third party device from the list (column 7, lines 22-26)."

It is respectfully submitted that the lines in question of column 7 simply do not disclose using a second transceiver to broadcast a request for compatible third party devices within a desired local area to identify themselves and then generating a list of the devices responding to the request. In fact, the passages in question simply refer to

selecting the names of possible conference participants from an address book and attaching the selected contact information to the SMS message, and to the use of software installed on the cellular phone for assisting the conference initiator "in organizing the names and numbers of the conference participants." Although the Examiner has specifically referred to these passages and this language in Fostick, it is respectfully submitted that these passages are not a teaching of the subject matter of claim 11. Moreover, for the reasons set forth above, it is respectfully that the combination of Thomas and Fostick is the improper product of hindsight.

Considering claim 18, this claim recites identifying a third party device within a desired local area based on a menu identifying compatible third party devices within the range of the local area receiver and based on identification codes preprogrammed into the cellular phone so as to enable a name of a person to be associated with each compatible third party device. For at least the reasons set forth above in support of the patentability of claim 1, it is respectfully submitted that claim 18 is patentable over the Thomas and Fostick references.

Claims 25-28, 36-39 and 40 have been rejected under 35 USC 103(a) as being "unpatentable over" the Thomas reference "in view of Irvin" while claim 35 has been rejected under 35 USC 103(a) as being unpatentable over the Thomas and Fostick references "and further in view of Irvin."

Turning to independent claim 25, claim 25 recites, inter alia, a microphone coupled to the combining means and a speaker coupled to the combining means such that sound generated at the microphone is not played at the speaker. It is respectfully submitted that the Irvin patent does not disclose this feature.

Considering the latter contention in more detail, in rejecting claim 25, the Examiner has made reference to "combining means" 282, to element 274 of Figure 2, and to column 5, lines 55-66 and column 6, lines 26-34, while in rejecting claim 35, the Examiner has made reference to Figure 2 and lines 34-50 of column 5 of Irvin. However, it is respectfully submitted that Figure 2 and the cited lines merely disclose the use of a microphone and a speaker, and do not disclose a speaker and a microphone coupled to combining means such that sound generated at the microphone is not played at the speaker. In this respect, lines 34-50 of column 5 to which the

Examiner has referred merely make reference to "speaker 274 and/or microphone 282" and contains no teachings or suggestion that these elements operate as claimed. In fact, the use of "and/or" in reference to the speaker and microphone indicates that the two need not be used together. Moreover, it is not seen how lines 55-66 of column 5 and lines 26-34 of column 6, which concern ganged switches 324 and 334, are relevant. In any event, it is respectfully submitted that the subject matter of claim 25 is simply not disclosed by Irvin or Thomas or Fostick and thus even assuming for the sake of argument that it would be obvious to combine these references, the resultant hybrid combination would not be that claimed in claim 25.

It is noted that although the shortcomings of the Irvin patent as a reference against claim 25 were discussed in the last response, the Examiner has not addressed this argument. Thus, if the Examiner intends to pursue this rejection, it is respectfully requested that the Examiner specifically point out why the feature in question is deemed to be disclosed by Irvin.

Allowance of the application in its present form is respectfully solicited.

**END REMARKS**